

## PUBLIC SERVICE COMMISSION

Budget Summary							
Fund	2000-01 Base Year Doubled	2001-03 Governor	2001-03 Jt. Finance	2001-03 Legislature	2001-03 Act 16	Act 16 Change Over Base Year Doubled	
						Amount	Percent
FED	\$194,600	\$324,800	\$324,800	\$324,800	\$324,800	\$130,200	66.9%
PR	31,268,000	30,857,600	30,566,600	30,566,600	30,566,600	- 701,400	- 2.2
SEG	<u>13,800,000</u>	<u>13,800,000</u>	<u>13,800,000</u>	<u>13,800,000</u>	<u>13,760,000</u>	<u>- 40,000</u>	- 0.3
TOTAL	\$45,262,600	\$44,982,400	\$44,691,400	\$44,691,400	\$44,651,400	- \$611,200	- 1.4%

FTE Position Summary						
Fund	2000-01 Base	2002-03 Governor	2002-03 Jt. Finance	2002-03 Legislature	2002-03 Act 16	Act 16 Change Over 2000-01 Base
FED	1.00	1.00	1.00	1.00	1.00	0.00
PR	<u>191.50</u>	<u>189.50</u>	<u>190.50</u>	<u>190.50</u>	<u>190.50</u>	<u>- 1.00</u>
TOTAL	192.50	190.50	191.50	191.50	191.50	- 1.00

### Budget Change Items

### Agencywide

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide standard adjustments to the base budget totaling -\$900 FED annually, -\$333,300 PR in 2001-02 and -\$332,000 PR in 2002-03 and -1.0 PR project position annually for: (a) turnover reduction (-\$259,700 PR annually); (b) removal of noncontinuing elements from the base (-\$67,700 PR and -1.0 PR project position annually); (c) full funding of continuing salaries and fringe benefits (-\$900 FED and -\$77,000 PR annually); (d) reclassifications (\$800 PR annually); (e) BadgerNet increases (\$5,900 PR in 2001-02 and \$7,200 PR in 2002-03); (f) fifth week of vacation as cash (\$48,500 PR annually); and (g) full funding of lease costs and directed moves (\$15,900 PR annually).

Funding Positions		
FED	- \$1,800	0.00
PR	<u>- 665,300</u>	<u>- 1.00</u>
Total	- \$667,100	- 1.00

## 2. ELECTRONIC FILING OF DOCUMENTS [LFB Paper 780]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$250,000	- \$60,000	\$190,000

**Governor:** Provide \$125,000 annually for the implementation of an electronic document management system designed to reduce the time necessary to receive, circulate and publish documents related to Commission cases. Of the amounts requested, \$100,000 annually would be one-time funding for the first two years of a proposed three-year master lease for the software. The remaining \$25,000 annually would be base-building funding to support on-going software maintenance expenses.

**Joint Finance/Legislature:** Delete \$30,000 annually to reflect reduced master lease payment requirements (-\$5,000 annually) and the reallocation of base level funding to support on-going software maintenance expenses (-\$25,000 annually).

## 3. FEDERAL REVENUE REESTIMATES

FED	\$132,000
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**Governor/Legislature:** Reestimate federal revenues by \$66,000 annually for: (a) increased natural gas pipeline safety program costs (\$60,000 annually) and (b) increased federal indirect cost reimbursement expenditures (\$6,000 annually). Federal indirect cost funds reimburse the agency for its indirect costs of administration of the natural gas pipeline safety federal grant.

## 4. ELIMINATION OF STRAY VOLTAGE RESEARCH FUNDING [LFB Paper 781]

PR	- \$350,000
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**Governor:** Delete \$175,000 annually of base level expenditure authority that supports stray voltage research in the University of Wisconsin System. Under current law, public utilities and electric cooperatives are assessed for a proportionate share of the amounts appropriated annually to the Commission for stray voltage research. Of the total amounts assessed by the Commission, current law requires that \$175,000 annually be transferred to a stray voltage research appropriation under the University of Wisconsin System. The effect of deleting the Commission's base level expenditure authority for stray voltage research is to eliminate the annual assessment of utilities and electric cooperatives for this purpose during the 2001-03 biennium. In the absence of annual assessments, no new funds would be available for transfer to the University of Wisconsin System appropriation for stray voltage research. Notwithstanding this fact, the bill continues to estimate \$175,000 of expenditure authority annually under the University's stray voltage research continuing appropriation.

**Joint Finance/Legislature:** Repeal the PSC's stray voltage research appropriation and associated authority to make such assessments. Reduce estimated expenditures under the

University of Wisconsin stray voltage research appropriation by \$29,500 in 2001-03 and \$72,200 in 2002-03 to reflect the current project budget. The fiscal effect of this reduction is shown under "University of Wisconsin System." Effective July 1, 2003, repeal the UW stray voltage research appropriation and the statutory language requiring the UW Board of Regents to establish a stray voltage research program.

[Act 16 Sections: 465d, 582g, 582h, 1357m, 3017m and 9456(1w)]

**5. TRANSFER OF MOBILE HOME PARK WATER AND SEWER REGULATION TO THE DEPARTMENT OF COMMERCE [LFB Paper 300]**

**Governor:** On the first day of the seventh month beginning after publication of the biennial budget act, transfer the authority to regulate water and sewer service provided to occupants of mobile home parks from the Commission to the Department of Commerce, as follows:

*Regulatory Functions Transferred.* Commerce, rather than the Commission: (a) would be required to promulgate administrative rules that establish standards for water and sewer service to occupants of a mobile home park (uniformly designated "manufactured homes" under Commerce), including requirements for metering, billing, deposits, deferred payment arrangements, installation of service, refusing or discontinuing service, resolving disputes and ensuring just and reasonable rates and service; (b) would be authorized, on its own motion or upon complaint by a manufactured home park occupant, to issue an order or commence a civil action to enforce its manufactured home park water and sewer regulatory authority; and (c) would be required to levy and enforce the collection of an annual assessment within 90 days of the start of each fiscal year against manufactured home park operators for the costs of regulation. As under current law, the assessment would be apportioned based on the number of manufactured homes owned or managed by each operator to the total number of such homes statewide.

Current law provisions: (a) authorizing a manufactured home park operator to make reasonable recovery of capital costs for permanent improvements relating to the provision of water and sewer service; (b) authorizing the Department of Justice or a district attorney to commence enforcement actions in circuit court to enforce regulations governing the provision of water and sewer service in manufactured home parks; and (c) establishing forfeitures of not less than \$25 nor more than \$5,000 per occurrence for violations of such regulations would also be recodified under Commerce.

*Regulatory Authority Modified Under the Transfer.* Delete references to "mobile home" and insert uniform references to "manufactured homes." Under the "mobile home" park definition applicable to the Commission's regulation of water and sewer service, coverage extends to any tract containing two or more plots that are rented or offered to accommodate a mobile home. Under the "manufactured home" park definition that would be used under Commerce,

regulatory authority would extend under a current law definition of manufactured home parks to any plot of land on which are located three or more manufactured homes occupied for dwelling or sleeping purposes but does not include a farm where the homes are occupied by the father, mother, son, daughter, brother or sister of the farm owner or operator or where the occupants of the manufactured home work on the farm.

Delete the current law authority of the occupants of 25% of the total number of mobile homes in a park or the occupants of 25 such homes, whichever is less, to file a complaint with the Commission and authorize the Commission to investigate the complaint. In addition, general provisions governing the manner by which the Commission currently investigates complaints, gives notice of hearings and conducts summary investigations would not be recodified under the regulatory provisions created under Commerce.

*Transition Provisions.* Include a nonstatutory provision directing the transfer from the Commission to Commerce, as determined appropriate by the Secretary of the Department of Administration, all assets and liabilities, tangible property, including records, contracts, rules and orders, and any pending matters relating to the regulation of water and sewer service provided by mobile home parks. These transfers would occur on the first day of the seventh month beginning after publication of the biennial budget act.

The executive budget book states that the Governor is recommending the transfer of the current Commission staff position associated with water and sewer regulation at mobile home parks from the Commission to Commerce. However, this position (an expiring project position) and \$57,700 PR annually would be deleted as part of the Commission's standard budget adjustments. There is no provision under the Commission's recommended budget either to restore the position or to transfer it to Commerce. In addition, because of the delay in the effective date of the transfer of manufactured home park water and sewer regulatory authority to Commerce, the Commission will retain program responsibility and assessment authority for at least six months during the 2001-02 fiscal year. However, there will be no regulatory staff or any expenditure authority provided for the costs of mobile home park water and sewer regulation on which the Commission could base any assessment.

**Joint Finance/Legislature:** Modify provision by deleting the Commission's mobile home park regulation appropriation and its authority to assess mobile home park operators for the costs of regulation on the general effective date of the biennial budget act to reflect the immediate transfer of these regulatory functions to Commerce. Include a nonstatutory provision transferring the unencumbered balances in the Commission's mobile home park regulation appropriation to Commerce. For other changes relating to the funding and staffing of this function following its transfer, see "Commerce -- Building and Environmental Regulation."

[Act 16 Sections: 459r, 464, 465b, 2408, 2532 thru 2539, 2540, 2540m, 2541, 2973 thru 2977, 2989 thru 2994, 3002 thru 3007, 3014b thru 3017, 9110(3z), 9142(2) and 9210(3z)]

**6. ELIMINATION OF ASSESSMENT CAP ON COMMISSION EXPENSES RELATED TO ITS REVIEW OF WHOLESALE MERCHANT PLANT CONSTRUCTION**

**Governor/Legislature:** Modify the current statutory limit on the annual amount of direct and remainder assessments the Commission may levy against any public utility, power district or sewerage system for the costs of regulation by exempting from the limit any Commission direct assessments relating to its review of construction requests for wholesale merchant plants. Clarify the codification of the current assessment statute and make necessary cross-reference changes. Specify that the new exemption relating to assessments for construction reviews of wholesale merchant plant would first apply to actions taken by the Commission on and after the general effective date of the biennial budget act. Under current law, the total amount that a public utility, power district, or sewage system may be assessed for the Commission's costs of regulation may not exceed four-fifths of one percent of the utility's gross operating revenues derived from the intrastate operations in the previous calendar year.

Wholesale merchant plants are defined under current law as electric generating equipment and associated facilities located in the state that do not provide service to any retail customer and are owned and operated by either a person that is not a public utility or (with Commission approval) an affiliated interest of a public utility.

[Act 16 Sections: 2978, 3012, 3013 and 9342(3)]

**7. LEASED GENERATION CONTRACTS BETWEEN PUBLIC UTILITIES AND AFFILIATED INTERESTS**

**Joint Finance:** Authorize a public utility and an affiliated interest to enter into a long-term leased generation contract with one another and authorize a public utility to transfer, at book value, real estate held or used for the provision of utility service to an affiliated interest for the purposes of implementing a leased generation contract, as approved by the Commission.

Define a "leased generation contract" as a contract or arrangement under which a utility's affiliated interest agrees to construct or improve electric generating equipment and associated facilities and to lease to the utility the land, equipment and associated facilities for operation by the public utility.

*Conditions Applicable to a Leased Generation Contract.* Modify current law to allow a new type of leased generation contract arrangement between a public utility and an affiliated interest, and authorize the Commission to approve it, only if all of the following conditions applied:

a. The Commission has not issued a certificate to transact public utility business or a certificate of public convenience and necessity before January 1, 2001, for any construction or improvement that is subject to a leased generation contract;

b. Construction or improvement of the facilities subject to the lease begins on or after January 1, 2001;

c. No existing electric generation equipment and associated facilities, or electric generating equipment held or used by the public utility is transferred to the affiliated interest;

d. The gross cost of construction of improvements for a leased generation contract is at least \$10,000,000;

e. Any real property transferred to the affiliated interest for implementing the leased generation agreement shall be at book value, as determined on the basis of the regulated books of account at the time of the transfer;

f. Any real property transferred to the affiliated interest may be transferred back to the utility on the same terms and conditions as the original transfer (where the Commission determines that the construction or improvement subject to the leased generation contract has not been completed);

g. The leased generation contract provides that, upon termination of the contract, the utility shall have the option, with Commission approval, to extend the lease or to purchase the electric generating equipment and associated facilities constructed or improved under the lease at fair market value. However, if the utility exercises the option, the affiliated interest may require the utility to extend the contract, rather than purchase the facilities and equipment, if the affiliated interest demonstrates to the Commission that the extension would avoid a material negative tax impact;

h. The leases run for a minimum of 20 years for any gas-fired electric generating equipment and associated facilities constructed or for a minimum of 25 years for a coal-fired electric generating equipment and associated facilities constructed; and

i. The lease does not take effect until the affiliated interest begins improvements or construction of any particular electric generating equipment and associated facilities. The Commission would also maintain jurisdiction to ensure that the construction or improvement under the approved leased generation contract is completed as provided in the contract.

Prohibit the Commission from increasing or decreasing the retail revenue requirements of a utility on the basis of any income, expense, gain or loss that is incurred or received by the utility's affiliated interest due to the ownership of electric generating equipment and associated facilities by an affiliated interest under a leased generation contract. Direct the Commission to allow a utility to recover in its retail rates all payments and costs related to a leased generation contract. This latter provision would apply only to that portion of the required payments and costs that are related to providing service to its retail customers.

Once the Commission has approved a leased generation contract between an affiliated interest and a utility, prohibit the Commission from further modifying the contract, except as initially provided in the contract or in the Commission's initial approval order. This limitation would apply, notwithstanding a current law provision that the Commission has continuing supervisory control over the terms and conditions of a contract or arrangement approved under the affiliated interest law.

Authorize electric cooperatives or municipal electric utilities to acquire an interest in the electric generating equipment and facilities constructed under a leased generation contract or from acquiring an interest in the associated land.

*Property Subject to Transfer Under a Leased Generation Contract.* Authorize a public utility to transfer real property to its nonutility affiliate at book value for the purpose of implementing a leased generation contract. This authority would not apply to the transfer of any electric generating equipment and associated facilities or electric generating equipment.

**Conference Committee/Legislature:** Modify Joint Finance provision by including the following clarifications:

*Revised Conditions Applicable to a Leased Generation Contract.* Revise the list of items that must be included in a leased generation contract approved by the PSC: (a) specify that the Commission must not have issued a certificate to transact public utility business or a certificate of public convenience and necessity for any construction or improvement under the contract before January 1, 2002 (rather than 2001); (b) stipulate that construction or improvement of the facilities subject to the lease must begin on or after January 1, 2002 (rather than 2001); (c) newly prohibit the construction or improvement of a nuclear-powered facility under a leased generation contract; and (d) specify that upon termination of the contract, if the affiliated interest requires the public utility to extend the contract rather than purchase the facility (to avoid material adverse tax consequences to the affiliated interest), the extension would newly have to provide terms and conditions that were economically equivalent to a purchase.

*Property Subject to Transfer under a Leased Generation Contract.* Clarify that for the purpose of implementing a leased generation contract, a public utility affiliate could transfer to a nonutility affiliate any of the following: (a) land that is held or used for the provision of utility service; and (b) electric generating equipment or associated facilities located on the land to be occupied by an electric generating facility subject to a leased generation contract and are part of an electric generating facility on that land that is no longer used or useful for the provision of utility service and that has been retired from the provision of such services. Under the Joint Finance provision, "real property other than electric generating equipment and associated facilities" could be transferred.

In lieu of the term "electric generating equipment and associated facilities," define "electric generating equipment" to mean: (a) an electric generator; (b) a machine that drives an electric generator, including an engine, turbine, water wheel, or wind mill; (c) equipment that converts

a fuel or source of energy into energy that powers a machine that drives an electric generator, including a boiler, but not including a nuclear reactor; or (d) a fuel or photovoltaic cell. Define "electric generating facility" to mean electric generating equipment and associated facilities that together would constitute a complete facility for electricity generation.

*Status of Wholesale Merchant Power Plants.* Clarify that the definition of a wholesale merchant plant would not include an electric generating facility or an improvement to an electric generating facility that is subject to a leased generation contract.

*Status of Electric Generating Facilities under a Leased Generation Contract.* Clarify that an entity that owns an electric generating facility or improvements that is subject to a leased generation contract would not be deemed a public utility unless the entity furnishes utility services directly to the public.

[Act 16 Sections: 2977b, 3001b, 3001d, 3008mc, 3011g, 3011jc and 9342(4wxm)]

## **8. COMMENCEMENT OF CONSTRUCTION OF ELECTRIC GENERATING EQUIPMENT AND ASSOCIATED FACILITIES**

**Joint Finance/Legislature:** Require an electric utility that has received a certificate of public convenience and necessity from the Commission for constructing electric generating equipment and associated facilities rated at a capacity of 100 megawatts or more to begin construction within one year of the latest of the following: (a) the date the Commission issues the certificate of public convenience and necessity; (b) the date on which the electric utility has been issued every federal and state permit, approval, and license required prior to beginning construction; (c) the date on which every deadline has expired for requesting administrative review or reconsideration of such permits and licenses; and (d) the date on which the electric utility has received the final decision, after exhausting every proceeding for judicial review.

Authorize the Commission to grant an extension of this deadline upon a showing of good cause by the electric utility.

Stipulate that if the electric utility does not begin construction of electric generating equipment and associated facilities within the applicable one-year period, unless extended, the original certificate of public convenience and necessity would be void and the electric utility could not commence construction of the large electric generating facility. Provide that this new limitation would first apply to requests for certificates of public convenience and necessity for large electric generating facilities that are issued on and after the general effective date of the biennial budget act.

[Act 16 Sections: 3001m and 9342(4mk)]



## 9. ADMINISTRATIVE RULES TO FACILITATE THE PRODUCTION OF DISTRIBUTED ENERGY

**Joint Finance:** Newly define a "distributed generation facility" as a facility operated by an electric consumer that uses any form of generation, including photovoltaic or fuel cells or wind power, for the production of electricity. Include in this definition a small electric generating facility used by an independent power producer.

Newly define "engineering concerns" to include those related to power quality or the safety and reliability of the state's electric power distribution grid. Define "regulatory concerns" to include any of the following: (a) tariffs for a public utility's distributed generation; (b) nondiscriminatory fees that a public utility may charge the owner or operator of a distributed generation facility; (c) the cost of upgrades to the state's electric power distribution grid; and (d) other terms or conditions imposed by a public utility on the owner or operator of a distributed generation facility, including liability insurance, indemnification or terms and conditions related to the transfer or sale of property.

Direct the Commission to promulgate rules designed to facilitate, to the greatest extent possible, the use of distributed generation facilities and their interconnection to the state's electric power distribution grid. Stipulate that the rules include standards for interconnection that are uniform across the state, regardless of the distributed generation facility that is interconnected and regardless of the owner of the transmission facility to which interconnection is made, except where engineering and regulatory concerns require additional interconnection standards.

Require the Commission to promulgate rules establishing standards for the purchase by public utilities of electric power, including standards for the following: (a) the use of a net metering tariff for a distributed generation facility with a capacity that does not exceed 20 kilowatts or the peak load of the facility's owner, whichever is greater; and (b) the use of real-time pricing, so that the price paid by a public utility for power placed on the grid by a distributed generation facility reflects the utility's cost of generation at that time.

Require that the draft administrative rules be submitted to the Legislative Council no later than the first day of the sixth month after the general effective date of the biennial budget act.

**Assembly:** Modify Joint Finance provision by limiting the application of the proposed administrative rules to tariffs, terms and conditions for facilitating the production of distributive energy only of those utilities that in 2000 provided retail electric service to customers that had an aggregate load of 1,200 megawatts or more. This provision would exempt from the Commission's proposed rules small class A public utilities, municipal electric utilities and cooperative electric utilities.

**Conference Committee/Legislature:** Delete Joint Finance provision and substitute the following:

Define a distributed generation facility as a facility for the generation of electricity that is located near the point where the electricity will be used or in a location that will support the functioning of the electric power distribution grid and that has a capacity of not more than 15 megawatts.

Require the PSC to promulgate rules establishing standards for the connection of distributed generation facilities to electric distribution facilities. To the extent technically feasible and cost effective, require that the standards be uniform and promote the development of distributed generation facilities. Specify that the standards address engineering, electric reliability, safety and methods for determining charges for interconnection.

Require the PSC to submit a proposal for rules on distributed generation interconnection standards to the Legislative Council Rules Clearinghouse no later than the first day of the ninth month following the general effective date of the biennial budget act.

Require the Commission to establish an advisory committee to assist the PSC in developing the rules for distributed generation interconnection standards. Provide that the advisory committee consist of interested stakeholders, including distributed generation equipment installers and manufacturers, customers, energy advocacy groups, utility workers, environmental groups, public utilities, electric cooperatives, and representatives of the Departments of Administration and Natural Resources.

**Veto by Governor [F-12]:** Delete the requirement that the proposed rules be submitted to the Legislative Council Rules Clearinghouse no later than the first day of the ninth month after the general effective date of the biennial budget act.

[Act 16 Sections: 3001p and 9142(2zq)]

[Act 16 Vetoed Section: 9142(2zq)]

## **10. REFUSAL TO TRANSFER CUSTOMERS OF LOCAL EXCHANGE SERVICE MADE A PROHIBITED PRACTICE**

**Joint Finance/Legislature:** Prohibit a telecommunication utility, with respect to its regulated services, or any other telecommunications provider, with respect to its offering of local exchange services, to refuse to transfer or facilitate the transfer of its local exchange service customers to another provider on the same terms and conditions that it receives from any other telecommunications provider, unless such terms and conditions violate federal law.

[Act 16 Section: 2984m]

## **11. REVISED COMMISSION ENFORCEMENT AUTHORITY OVER VARIOUS ENTITIES PROVIDING TELECOMMUNICATIONS SERVICE**

**Joint Finance/Legislature:** Modify the Commission's authority to enforce laws relating to telecommunications providers and to provide protection to telecommunications consumers by specifically enumerated telecommunications providers in the listing of matters the PSC must consider in setting forfeitures for violations of Chapter 196 of the statutes or for failing to obey a lawful order of the Commission. Specify that these considerations include the appropriateness of the forfeiture in relation to the volume of business of the telecommunications provider and any good faith efforts made by the telecommunications provider to achieve compliance following notice of a violation.

This provision was included as a LRB technical amendment to the Joint Finance substitute amendment to reflect a statutory change provision that should have been included as part of the Governor's original recommendation relating to revised Commission enforcement authority over telecommunications providers. However, the Joint Committee on Finance had actually deleted the Governor's original recommendation from the budget as a non-fiscal policy item; consequently, the technical amendment was not needed.

**Veto by Governor [F-13]:** Delete provision.

[Act 16 Vetoed Section: 3011d]

## **12. ASSESSMENT OF TELECOMMUNICATIONS PROVIDERS FOR WISCONSIN ADVANCED TELECOMMUNICATIONS FOUNDATION, INC., CONTRIBUTION ARREARAGES**

PR-REV	\$3,866,200
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**Senate/Legislature:** Direct the Commission to make a one-time assessment of telecommunications providers sufficient to collect the amounts that were solicited by, but not contributed to, the Wisconsin Advanced Telecommunications Foundation, Inc., (WATF) for the establishment of the Foundation's endowment fund. It is estimated that these contribution arrearages total \$3,866,200. Under current law, a "telecommunications provider" is any person that provides telecommunications services.

Stipulate that no later than the first day of the second month after the general effective date of the biennial budget act, the Commission shall do each of the following: (a) determine the total amount that the WATF solicited from each telecommunications provider for contribution to the endowment fund and the total amount that each telecommunications provider contributed to the endowment fund; and (b) assess against each telecommunications provider the difference, if any, between the amount solicited by the Foundation and the amount contributed by the telecommunications provider. Specify that a telecommunications provider would have 30 days from the receipt of the notice of payment due to make the payment. After

30 days, the PSC would be authorized to send a failure to pay notice to the State Treasurer for the collection of amounts due.

Stipulate that the amounts collected through the assessment would be provided to the TEACH Board. Create a PR annual appropriation for payments to school districts for the educational block grant program under s. 44.72(2)(b)2. of the statutes. Require the Board to offset expenditures from its existing GPR appropriation for the educational technology block grant program in an amount equal to the amount expended from the new PR appropriation. It is estimated that the assessment would yield \$3,866,200 in 2001-02 of additional revenues that would be credited to the new appropriation, resulting in an equivalent GPR-Lapse amount in 2001-02.

Authorize telecommunication providers to pass the assessment on to their customers provided the customer's bill states that the surcharge is being assessed due to the telecommunication provider's failure to meet its responsibility to the WATF.

**Veto by Governor [F-15]:** Delete provision that would have authorized a telecommunication provider to surcharge its customers' bills, provided the bill state that the surcharge was being assessed due to the telecommunication provider's failure to meet its responsibility to contribute to the WATF.

[Act 16 Sections: 567, 569q, 1424 and 9142(3mk)]

[Act 16 Vetoed Section: 9142(3mk)]

### **13. PUBLIC INTERVENOR FUNDING**

**Assembly:** Delete \$500,000 PR annually for public intervenor compensation. Modify the mandatory requirement that the Commission provide intervenor compensation under certain circumstances to specify instead that the Commission would have permissive authority to grant such compensation. Further, stipulate that the intervenor would have to show that adequate presentation of a significant position would not be possible (rather than the current "would not occur" standard) without the grant of compensation. Specify that these modifications would first apply to intervenor compensation granted on and after the general effective date of the biennial budget act.

Under current law, the Commission must provide intervenor compensation where: (a) the intervenor's participation is necessary to provide an adequate presentation of a significant position represented by the intervenor that would not otherwise occur without the compensation; or (b) the participation has provided a significant contribution to the record and has caused a significant financial hardship to the intervenor.

**Conference Committee/Legislature:** Delete provision.

#### 14. UNIVERSAL SERVICE FUND APPROPRIATION REDUCTION

SEG	- \$40,000
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**Assembly:** Delete base level funding of \$1,923,000 annually from the amounts appropriated to the universal service fund for the following program activities: (a) -\$150,000 annually for the Link-up America program, which requires telecommunications providers to waive service connection charges when low-income consumers establish or move their telephone service; (b) -\$1,000,000 annually for the Lifeline program, which makes a lower monthly rate available for telephone service for low-income subscribers; (c) -\$150,000 annually for low-income outreach efforts, which funds collaborative partnerships between community-based organizations and telecommunications providers to increase participation in universal service fund programs by low-income subscribers; (d) -\$20,000 annually to provide voice-mail services for the homeless; (e) -\$500,000 annually for programs and projects by nonprofit groups to improve access to affordable telecommunications and information services; and (f) -\$103,000 annually for the fund's administrative costs. Base level funding for the fund is \$6,900,000 annually.

Under this modification, the following base level funding amounts would remain available in the universal service fund for each of the above programs: (a) \$300,000 annually for Link-Up America; (b) \$750,000 annually for Lifeline rates; (c) \$100,000 for low-income outreach efforts; (d) \$0 annually for voice-mail for the homeless services; (e) \$0 annually for programs and projects by nonprofit groups to improve access to affordable services; and (f) \$147,000 annually for fund administration.

**Conference Committee/Legislature:** Delete provision.

**Veto by Governor [F-14]:** Delete \$20,000 annually for voice mail services for the homeless by deleting the amounts in the schedule (\$6,900,000 annually) and writing in lower amounts (\$6,880,000 annually).

[Act 16 Vetoed Section: 395 (as it relates to s. 20.155(1)(q))]

#### 15. CAPPING UNIVERSAL SERVICE FUND CONTRIBUTIONS FOR PSC PROGRAMS

**Assembly:** Commencing with the 2003-04 fiscal year and thereafter, prohibit the collection of more than \$4,000,000 annually through Commission assessments of telecommunications providers to support the provision of universal telecommunications services under the Commission's universal service fund appropriation. The current base level of funding in this appropriation is \$6,900,000 SEG annually.

**Conference Committee/Legislature:** Modify provision by prohibiting the collection of more than \$5,000,000 in 2003-04 and \$6,000,000 in 2004-05 and each year thereafter through

Commission assessments of telecommunication providers to support the provision of universal services under the Commission's universal service fund appropriation.

[Act 16 Section: 2981t]

#### **16. EXEMPTION FOR CELLULAR PHONE PROVIDERS FROM UNIVERSAL SERVICE FUND CONTRIBUTIONS**

**Assembly/Legislature:** Provide that commercial mobile radio service providers would be subject to contributions to the state universal service fund only if the Commission promulgates rules designating such providers as eligible to receive universal service funding under both federal and state universal service fund programs. Under current law, commercial mobile radio service providers are subject to universal service fund contributions only to the extent not preempted by federal law.

[Act 16 Section: 2981Lm]

#### **17. LISTING OF UNIVERSAL SERVICE FUND SURCHARGES ON CUSTOMER BILLS**

**Assembly:** Delete the current law prohibition barring a telecommunications provider from establishing a separate surcharge on customer bills for contributions to the universal service fund. Currently, these amounts are collected in the telecommunications provider's basic rates but are not separately identified as such on the customer's bill.

**Conference Committee/Legislature:** Delete provision.

#### **18. STRAY VOLTAGE AND ELECTRICAL REWIRING ASSISTANCE GRANT PROGRAM**

**Assembly:** Create a stray voltage and electrical wiring assistance program under DOA to be funded by certain investor-owned electric and gas utility base level public benefits funds that are being transitioned to the state, as follows:

*Farm Rewiring Fund.* Establish a farm rewiring fund as a separate, nonlapsing trust under the management of the Investment Board.

*Contributions to the Farm Rewiring Fund.* Specify that of the 1998 base level public benefits funds currently being transitioned from major investor-owned electric or gas utilities to the state public benefits fund, the first \$1,500,000 transferred in 2001-02 and the first \$2,500,000 transferred in 2002-03 would be earmarked instead for deposit into the new farm rewiring fund. Under current law, the amounts that the major investor-owned utilities spent on public benefits

programs in 1998, as determined by the Commission, must be gradually phased over to the DOA public benefits fund during calendar years 2001, 2002 and 2003, in amounts and on a schedule established by the Commission. Beginning with calendar 2003, the utilities must contribute the entire 1998 base level amounts to DOA.

The Commission has identified \$4,655,200 of low-income related public benefits expenditures and \$18,252,500 of energy conservation and efficiency and renewable resource programs public benefits expenditures to be transitioned from the utilities to DOA in calendar year 2001. For calendar year 2002, these amounts are \$4,579,300 and \$27,307,600 respectively, and for calendar year 2003 are \$21,329,000 and \$45,826,000 respectively. While the proposed language does not indicate which revenue stream would be used to fund the farm wiring fund, revenues from the energy conservation and efficiency and renewable resource programs would most likely be used.

*Stray Voltage and Electrical Wiring Assistance.* Authorize DOA to award grants to operators of dairy, beef or swine farms for the purpose of: (a) eliminating potential stray voltage concerns and sources; and (b) replacing electrical wiring. Specify that a farm operator would not be eligible to receive a grant under the program unless the public utility providing electric service to the farm had conducted tests to determine the sources of stray voltage on the farm.

Require DOA to promulgate rules establishing criteria and procedures for awarding grants under the program. The rules would have to require that any work completed under a grant would have to be "in accordance with acceptable practices."

Establish a new biennial, SEG-funded appropriation under DOA to fund stray voltage and electrical wiring assistance grants. No funding would actually be appropriated under the proposal.

Because electric cooperatives are not deemed "public utilities" under current law, farm operators served by an electric cooperative would not be eligible for a grant under the proposed program.

**Conference Committee/Legislature:** Delete provision.

## **19. ENERGY AND RELIABILITY IMPACT ASSESSMENT OF PROPOSED ADMINISTRATIVE RULES**

**Assembly:** Authorize the Commission to conduct an energy and reliability assessment of any proposed state agency administrative rule submitted to the Legislative Council Rules Clearinghouse. Stipulate that an energy and reliability assessment must evaluate the potential impact of the proposed rule on state energy policies relating to electricity generation, transmission, or distribution or to the fuels used in generating electricity. Authorize the

Commission to prepare an energy and reliability impact statement, if its initial assessment results in the conclusion that the proposed rule would have a significant impact on such state energy policies. Require the Commission's energy and reliability impact statement to evaluate those probable impacts and describe alternatives to the proposed rule that would reduce any negative impacts on state energy policies.

Require the Commission to submit its energy reliability impact statement to the Legislative Council Rules Clearinghouse and to the state agency proposing the rule. Require the state agency developing the rule to consider the Commission's energy and reliability impact statement before submitting to the Legislature the agency's subsequent notice and report on the rule's final draft form. Require the agency's report to include any energy and reliability impact statement received from the Commission and include an explanation of the changes, if any, that were made to the proposed rule in response to the Commission's energy and reliability impact statement.

**Conference Committee/Legislature:** Delete provision.

## **20. FILING OF ENGINEERING PLANS FOR HIGH VOLTAGE TRANSMISSION LINES**

**Assembly:** Specify that when a party files an engineering plan with the Department of Natural Resources (DNR) as a precondition for petitioning the Commission for a certificate of public convenience and necessity for the construction of a large electric generating facility or a high-voltage transmission line, the requirement that an engineering plan be filed with the DNR would apply only with respect to a large electric generating facility and not with respect to a high voltage transmission line. The engineering plan shows the location of the facility, describes its structure, including the major components of the facility that have a significant air or water pollution potential and describe the anticipated effects of the structure on air and water quality.

**Conference Committee/Legislature:** Delete provision.

## **21. TELECOMMUNICATIONS INFRASTRUCTURE CHARGES FOR NEW REAL ESTATE DEVELOPMENT**

**Assembly:** Prohibit a telecommunications utility from requiring any person to compensate the utility for the construction of any service distribution facilities related to any real estate development in the utility's service territory, except for compensation included in rates for basic local exchange service and business access line and usage service. "Real estate development" would be deemed to be the act of dividing or subdividing a parcel of land for construction purposes or for making improvements to facilitate or allow construction.

**Conference Committee/Legislature:** Delete provision.



## Office of the Commissioner of Railroads

### 1. RAILROAD CROSSING HEARING EXAMINER [LFB Paper 125]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$293,300	- 1.00	- \$293,300	1.00	\$0	0.00

**Governor:** Delete 1.0 PR attorney position in the Office to reflect a transfer of the position to DOA's Division of Hearing and Appeals. Specify that the incumbent employee in this position would retain the position and that the employee would have all the rights and the same status under state employment relations provisions that the employee had in OCR immediately prior to the transfer. Specify that the employee would not be required to serve a probationary period if the employee had already achieved permanent status. Provide \$151,400 PR in 2001-02 and \$141,900 PR in 2002-03 to fund charges for railroad closing and modification hearings conducted by the Division of Hearings and Appeals, which are currently conducted by OCR's attorney. A separate item, summarized under DOA, would create 1.5 PR positions in the Division of Hearings and Appeals to reflect the position transferred from OCR and the creation of an additional 0.5 clerical position to support the new attorney position. DOA indicates that the funding provided for OCR provides the amount needed to support the 1.5 positions. The bill, however, would not reduce OCR's funding for the transferred position, although it would move salary and fringe benefits funding for this position to the supplies and services budget line. Consequently, OCR's budget for Division of Hearings and Appeals services would exceed the amount necessary to support the 1.5 positions by \$103,900 annually. The nonstatutory provision in the bill to reflect the transfer erroneously creates 1.0 GPR attorney position in DOA, instead of 1.0 PR attorney position.

**Joint Finance/Legislature:** Delete provision.

### 2. RAILROAD SAFETY ANALYST SALARY FUNDING [LFB Paper 785]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
	Funding	Funding	Funding
PR	\$45,000	\$62,300	\$107,300

**Governor:** Provide \$22,500 annually to increase the salary and fringe benefits for the Office's four railroad safety analysts. The funding provided by this item is intended to improve the Office's ability to recruit and retain safety analysts.

**Joint Finance/Legislature:** Convert 1.0 railroad safety analyst position to 1.0 attorney position. Provide \$25,900 in 2001-02 and \$36,400 in 2002-03 to provide the difference in salary and fringe benefits cost between the railroad safety position and the new attorney position, net of the additional salary and fringe benefits funding provided by the bill for the converted railroad safety analyst position.

### 3. CLERICAL SUPPORT FUNDING

PR	\$16,600
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**Governor/Legislature:** Provide \$8,300 annually for the Office to increase the number of hours worked by two 0.5 FTE clerical employees by four hours per week each. This funding would be placed in unallotted reserve and only be released if OCR demonstrates sufficient workload to justify the additional hours.

### 4. OCR RAILROAD ASSESSMENT CAP [LFB Paper 785]

**Joint Finance/Legislature:** Increase the limit on the railroad gross operating revenue assessment used to fund the operations of OCR from 1.75% of railroads' prior year intrastate revenues to 1.85% of such revenues.

[Act 16 Sections: 2972t, 9342(1x) and 9442(1x)]

### 5. TWO CREW MEMBERS IN LOCOMOTIVE CAB

**Assembly:** Modify a current law provision that specifies that any railroad train or locomotive operating in Wisconsin must have a crew of at least two individuals, as follows: (a) specify that two individuals must be present in the cab of the lead control locomotive at all times that the railroad is in motion, except when the railroad train or locomotive is in motion for the purpose of switching; and (b) delete the provision that requires one of the individuals to be a certified railroad locomotive engineer and the other to be a certified railroad locomotive engineer or a qualified railroad trainman. Specify that these requirements do not apply to a railroad train or locomotive, other than a railroad train or locomotive carrying freight only, that is being operated as part of any commuter rail service operated by the state or any local governmental unit. The current law provision allowing the Office of the Commissioner of Railroads to grant exceptions if the Office determines that the exceptions would not endanger lives or property would be retained. Specify that these modifications would first apply to railroad trains or locomotives operated on the effective date of the bill.

**Conference Committee/Legislature:** Delete provision.